

OFFICE OF THE GOVERNOR

2747

STATE OF MONTANA

MARC RACICOT
GOVERNOR



STATE CAPITOL

HELENA, MONTANA 59620-0801

RECEIVED BY U.S. FISH
AND WILDLIFE SERVICE
GRIZZLY BEAR RECOVERY
COORDINATORS OFFICE.

September 30, 1997

OCT 02 1997

Dr. Christopher Servheen
U.S. Fish & Wildlife Service Project Leader
Bitterroot Grizzly Bear EIS
P.O. Box 5127
Missoula MT 59806

Re: Proposed Introductory Statement - Grizzly Bears in Selway-Bitterroot

Dear Dr. Servheen:

At the outset I want to acknowledge that the plan proposed by the U.S. Fish and Wildlife Service for the reintroduction of grizzly bears into the Selway-Bitterroot does involve a different way of doing business under the Endangered Species Act. I also want to recognize that it represents the collaborative efforts of several diverse groups and interests. As a result, I am hopeful that all interested parties will carefully consider the proposed action which embodies a significant departure from the traditional way that reintroduction proposals have been addressed in the past.

However, the Montana Department of Fish, Wildlife and Parks and I have identified several challenges that would have to be fully addressed before we could support the plan. These include: 1.) written assurance that grizzly bears that would come from the Yellowstone or Northern Continental Divide (NCD) would not count against the mortality quota and thus impede delisting of bears in those areas of Montana where there are recovered populations; 2.) written assurance from the Secretary of the Interior that adequate funding is available for both this project and for all aspects needed to delist bears in Yellowstone and the NCD; 3.) that the authority of the citizen management committee is preserved unless there is solid, scientific evidence that its decisions are not leading to recovery of the grizzly bear; and 4.) the other equally important issues as outlined on the attached comments to the draft Environmental Impact Statement (EIS).

The nature of this proposal is to find more acceptable and practical ways to recover species where Montanans have the discretion to direct recovery efforts within the parameters of sound scientific principles in an effort to recover a viable population while protecting the safety and security of those people who live in close proximity to the bears.

Sincerely,

A handwritten signature of Marc Racicot in dark ink.

MARC RACICOT
Governor

Comments - State of Montana
Grizzly Bear Recovery in the Bitterroot Ecosystem
Draft EIS

1 The Service is to be highly commended for including the Citizen Management Committee Alternative in the EIS and the selection of that alternative as the proposed action. If grizzly bears are to be introduced into the Bitterroot Ecosystem, the public support essential to success can only occur if citizens are given a significant voice in determining the best management strategies. The Citizen Management Committee Alternative provides that voice and goes a long way toward ensuring the success of the reintroduction effort. The proposed action may also represent a foresighted model for the increasing number of species whose listing and therefore management is highly controversial.

While supportive of citizen management in particular, we want to express strong reservations about the analysis contained in the EIS. The EIS fails to address or analyze a number of substantive issues:

1. The EIS states that "subadult grizzly bears of both sexes would be trapped, each year for 5 years, from areas in . . . the United States that presently have healthy populations of grizzly bears . . . the Northern Continental Divide Ecosystem and the Yellowstone Ecosystem." It goes on to state that ". . . relocated bears would be lost from these [NCDE & YE] populations and this loss would be a man-caused loss equivalent to a mortality. Some of these removals could be compensatory to other mortalities." The State of Montana unequivocally agrees that the populations in the two U.S. ecosystems are healthy, they have exceeded recovery goals and should be removed from the list of threatened species under the ESA. As such, those populations could support the withdrawal of the bears projected in the EIS. However, the EIS inadequately and incompletely analyzes the consequences of such withdrawals, particularly the cumulative impacts, to delisting these populations.

2 Though Montana has received verbal assurances that no bears will be taken from either U.S. ecosystem if mortality quotas have been reached or exceeded in a particular year, this is not explicitly stated in the draft EIS. Further, the EIS fails to analyze the cumulative implications on delisting arising from bear removals and the consequences to: (1) the 6 year running averages that are used to determine whether mortality quotas have been exceeded; and (2) the long term delisting consequences that occur with the removal of subadult male and female bears every year for five years.

By way of elaboration, we offer the following comment. Current mortality criteria are based on a running, multi-year factor and mortality limits are based on projected minimum population size. While removal of a bear in one year may not affect the mortality limit that year it will affect the population estimate and therefore influence the meeting of mortality limits in subsequent years. The EIS is deficient in that it does not address in any way the

implications of this on delisting. The State of Montana will vigorously oppose an EIS that does not comprehensively and scientifically address the full range of delisting issues presented by the yearly or cumulative impacts of removal of subadult bears from either or both U.S. ecosystems and will oppose any alternative that would slow delisting in the NCDE and the Yellowstone ecosystems.

3

In addition, the environmental analysis in the draft EIS depends upon the Canadian Province of British Columbia to supply bears for the Bitterroot reintroduction effort. The EIS should incorporate as an appendix written assurances from appropriate officials in British Columbia that a certain number of bears will be made available. Without that assurance, the EIS must analyze the potential impacts of obtaining all the required bears from U.S. ecosystems.

4

2. Estimated Annual Costs of Implementing Alternative 1 are \$168,000 for Idaho Fish & Game, Nez Perce Tribe, & Montana Department of Fish, Wildlife & Parks. The EIS does not address but should how those costs will be allocated amongst these various non-federal entities. Assuming for arguments sake that these costs would be equally shared by each entity, that represents an annual cost for MDFWP of \$56,000. Those costs are projected costs and only for the first five years. Based on experience with other ESA programs of similar import, these costs have been inadequately estimated and analyzed in the EIS. The U.S. Fish & Wildlife Service has a long history of underfunding grizzly bear recovery work in Montana and Wyoming. Furthermore, a federal EIS that is dependent for its conclusions upon expenditures by non-federal entities is inadequate unless there is a sound, long-term basis upon which funding for such endeavors can be identified. Montana will strongly oppose a final EIS that is not supplemented by written assurances from the Secretary of Interior that these costs will be met through specific grants for the life of the reintroduction effort.

In addition, the EIS did not, but must, evaluate the impacts upon adequate funding for: (1) other grizzly bear recovery efforts now delayed due to inadequate funding (the Cabinet-Yaak and the habitat study in the Grizzly Bear Yellowstone Ecosystem required by the Settlement Agreement between the Service and the various litigants which is delaying delisting of the Yellowstone population of grizzly bears) and (2) evaluate why the funding for such essential ESA activities as the Blackfooted Ferret Breeding facility is only available on a last minute, crises basis but funds are supposedly available for the Bitterroot reintroduction.

5

3. Successful reintroduction is dependent upon citizen support. There is some citizen confidence that the Citizen Management Committee concept set forth in the proposed action/Alternative 1 will ensure their concerns are addressed in the ensuing years. However, considerable mistrust exists. The chief impetus to that mistrust is lack of confidence that as soon as bears have been reintroduced the Secretary will use a pretext to reassume the authority granted to the CMC in the special rule. To alleviate these

5 | concerns, increase general citizen support for the reintroduction effort, and clarify the authority that is being delegated to the CMC, the EIS and the special rule incorporated by reference in the EIS (Appendix 13) must be altered as follows:

The Secretary of the Interior or his or her designee shall review 2-year work plans to be submitted by the Committee which outline the directions for the Bitterroot reintroduction effort. If the Secretary of the Interior determines through his/her representative on the Committee that the decisions of the Committee, the management plans, or the implementation of those plans are not leading to the recovery of the grizzly bear within the Experimental Area, the Secretary of the Interior's representative on the Committee shall solicit from the Committee a determination whether the decision, the plan, or implementation of components of the plan are leading to recovery. Notwithstanding a determination by the Committee that a decision, plan, or implementation of a plan are leading to recovery of the grizzly bear within the Experimental Area, the Secretary of the Interior, who necessarily retains final responsibility and authority for implementation of the Endangered Species Act, may find that the decision, plan, or implementation of a plan are inadequate for recovery and may resume lead management responsibility. In the event that the Secretary of the Interior determines that the actions of the Committee are not leading to recovery of the Bitterroot grizzly bear population, then the Secretary of the Interior shall ~~resume lead management implementation responsibility for the Bitterroot experimental grizzly bear population.~~ recommend, based upon the best scientific and commercial data available, corrective alternative actions and provide a 6-month time frame in which to accomplish those actions. Should the Committee reject those alternatives, the Secretary shall submit for peer review to a scientific panel of three those CMC actions or decisions upon which the Secretary's based his decision to reassume lead management authority. The panel shall review the information, solicit additional information if necessary and, using the best scientific and commercial data available make a determination based upon the preponderance of the evidence, whether the CMC actions or decisions would lead to recovery of the grizzly bear in the Bitterroot Ecosystem. The Secretary shall strongly consider the recommendations of the panel in determining whether to reassume lead management authority. The Secretary shall select one member of the panel, the CMC another and those two shall select the third who shall act as Chairman. The Secretary of the Interior's decision shall be based on the best scientific and commercial data available. Prior to such resumption of lead management implementation responsibility, the Secretary of the Interior shall Should the Secretary nevertheless decide to resume lead management responsibility, he shall, seek consultation with the Governors of Montana and Idaho to review with them the reasons for his decision and attempt to resolve the discrepancies between his suggested

alternatives and the actions or decisions of the CMC. If, after that meeting, the Secretary resumes lead management responsibility, he shall publish a rule outlining the changes intended for the management of the grizzly bear in the Bitterroot Ecosystem, the Committee would shall be disbanded and all requirements identified in this rule regarding the Committee shall be automatically nullified. If the Secretary does not resume lead management responsibility, the Committee shall continue until the recovery objectives have been met and the Secretary of the Interior has completed delisting.

6 4. The EIS is deficient in its assurances to the recreational public that safety concerns would be the chief basis for use restrictions in the Experimental area. Therefore, the EIS and special rule should be modified to state that the rule anticipates no restrictions on trail systems in back- or front- country areas of the Experimental Area for grizzly security. It should state that policy on trail restrictions for public safety will be set by the Citizen Management Committee.

7 5. The EIS must be supplemented with assurances the Service does not intend to reevaluate the "nonessential experimental" designation. The State of Montana considers inclusion of the following language essential: "The Service does not foresee any likely situation which would result in changing the nonessential experimental status until the grizzly bear is recovered and delisted in the Bitterroot Ecosystem according to provisions outlined in the current or subsequent Recovery Plan".

Further, the EIS must stipulate that all reintroduced bears designated as nonessential, experimental will be removed from the wild and the experimental status and regulations revoked if legal actions or lawsuits change the bear's status under the Act.

8 6. The EIS/Special Rule did not evaluate the impact of the reintroduction on existing grazing allotments. At a minimum, it should state that all existing grazing allotments within the Experimental Area will be managed similar to Situation 2 habitat, per the Interagency Grizzly Bear Committee Guidelines. The CMC should be directed to adapt this classification to minimize adverse impacts to permittees.

9 7. The EIS/Special Rule fails to assure the recreational public that the rule anticipates no restrictions on the hunting of black bears within the experimental Area for grizzly bear security.

8. The proposed action is to introduce a minimum of 25 grizzly bears over a period of five years to re-establish a population in the Bitterroot Mountains. The placement of grizzly bears into the Cabinet Mountains was proposed in 1987 by the USFWS as a conservation effort in order to maintain this population. The proposal was for two bears per year for two years and then monitored for an additional two years. Three grizzly bears were trapped in British Columbia and relocated into the Cabinet Mountains between 1990 and 1993. Of those, one died from unknown causes, and the other two were monitored for a period

10 before collar transmissions ceased. Although subsequent observations of these bears after relocation supported the assumption that they would stay within the target area, there was no evidence of reproduction other than from a bear which was pregnant at the time of relocation. The evidence from the Cabinet's work would suggest that significantly more bears would need to be relocated into the target area to establish a population in an area which was unoccupied. Based on the Cabinet's experience, the EIS is deficient in that it fails to evaluate whether the numbers of bears projected for reintroduction is sufficient to establish a viable population and fails to evaluate the opportunity for success at various levels of bear numbers introduced.

The Cabinet's work also indicates there will be difficulty in trapping subadult bears. Twenty different grizzly bears were captured to provide the 3 subadult females for the relocation effort. The others captured did not meet the criteria for age and sex. Trap nights per grizzly captured averaged 41.7 for the four year effort. To capture five bears would take 208.5 trap nights at this rate. One trap crew would need to trap every night for over six months to capture five bears at this rate. The window of capture opportunity is less than three months. Obviously the rate would change with the capture of both male and female subadults, but to capture five or more each year would not seem feasible as proposed, based upon the results from the work in the Cabinet Mountains. The EIS should consider the human and money resources this experience indicates would be necessary in the Bitterroot undertaking.

11 The EIS also fails to evaluate the anticipated cost of capturing bears based on this experience. We believe the estimated costs to capture and relocate that many animals is grossly underestimated based upon the Cabinet's work, because at least three work crews would more than likely be needed, trapping at three separate locations. The EIS must be adjusted accordingly.

12 9. Experience in the Cabinet Wilderness Area regarding grizzly bear reintroduction illustrates that trapping of subadult grizzlies for relocation results in the capture of significant numbers of black bears. The impact to the black bear populations in the NCDE and the Yellowstone were not evaluated in the EIS and must be.

13 10. The EIS states that no bears with a history of conflict with humans will be used in reintroduction. This should be altered to state "any bear determined to be a nuisance under the Nuisance Bear Guidelines". Otherwise livestock killing bears or other "problem" bears could be used which would not be acceptable.

14 11. The EIS fails to adequately analyze the impacts of grizzly bear reintroductions when such bears move into the Bitterroot valley of Western Montana.